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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/765,995	01/29/2004	Isabel N. Gonzalez		2949

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JAMES C. WRAY
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EXAMINER

SHIPLEY, AMY R

ART UNIT	PAPER NUMBER
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3734

NOTIFICATION DATE	DELIVERY MODE
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06/24/2011

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

jameswray@jcwray.com

Office Action Summary

Application No.

10/765,995

Applicant(s)

GONZALEZ, ISABEL N.

Examiner

AMY SHIPLEY

Art Unit

3734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 November 2010 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: 12, 14, 17, and 21. Figure 1 needs reference numbers for the plastic cover and wire. Figure 2 needs reference numbers for the plastic cover and wire. Figure 4 needs reference numbers for the strips at either end. It is suggested that figures are formed to show various drawings in a format of 1A, 1B, 1C, etc. The specification should be amended to include the added elements such as plastic cover.
2. The drawings are objected to because there is not a detailed description in the specification of figure III.
3. The drawings are objected to under 37 CFR 1.84(h)(5) because Figure 1, 2, and 3 show(s) modified forms of construction in the same view. For example, in figure 1 it is unclear the relationship between elements 13-15. For figure II it is unclear the relationship between elements 12, 12a, and 15. It is unclear what figure III is showing.
4. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, claim 4 which is directed to figure 4 however it is not clear from the specification how the device of figure

4 is held or how the holder is used, which must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

5. The disclosure is objected to because of the following informalities: the specification fails to explain the purpose of the transformer, where the device is placed and whether multiple locations are possible or even the use of multiple devices as suggested in figure IV, it is unclear how the placement device is used and where it is located with reference to the figures as they do not show how it is used and the

specification does not explain. Applicant describes two strips separated by a holder and placement device. As the placement device appears to have a nasal device on both ends it is assumed the placement device bridges the columna and a nasal device spans the right alar and the left alar, similar to as suggested in figure 1. Additionally it is unclear where the device is placed as the specification does not indicate the specific location of the pressure points. Examiner will assume the proper placement to be in contact with pressure points is indicated in figure 1, meaning the strip spans each alar.

With respect to the discussion of figure 1, the specification fails to describe each element shown in a figure for example there is not a description of elements 13 and 14 in the description of figure 1. For figure 2, the specification does not describe elements 12 and 15. For figure 3, the specification fails to describe element 17. For figure 5, the specification fails to describe element 21.

On page 3 of the specification some elements do not have reference numbers, for example plastic balls, the strip, adhesive strip, the device.

Additionally, examiner requests a detailed description in the specification of figure III.

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: "the adhesive coated plastic strip" in claim 1.

7. Applicant is reminded of the proper content of an abstract of the disclosure.

A patent abstract is a concise statement of the technical disclosure of the patent and should include that which is new in the art to which the invention pertains. If the patent is of a basic nature, the entire technical disclosure may be new in the art, and the abstract should be directed to the entire disclosure. If the patent is in the nature of an improvement in an old apparatus, process, product, or composition, the abstract should include the technical disclosure of the improvement. In certain patents, particularly those for compounds and compositions, wherein the process for making and/or the use thereof are not obvious, the abstract should set forth a process for making and/or use thereof. If the new technical disclosure involves modifications or alternatives, the abstract should mention by way of example the preferred modification or alternative.

The abstract should not refer to purported merits or speculative applications of the invention and should not compare the invention with the prior art.

Where applicable, the abstract should include the following:

- (1) if a machine or apparatus, its organization and operation;
- (2) if an article, its method of making;
- (3) if a chemical compound, its identity and use;
- (4) if a mixture, its ingredients;
- (5) if a process, the steps.

Extensive mechanical and design details of apparatus should not be given.

8. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

9. The abstract of the disclosure is objected to because "The nasal drip cessation or control devices are" does not have proper subject/verb agreement. Correction is required. See MPEP § 608.01(b).

Appropriate correction is required.

Claim Rejections - 35 USC § 112

10. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

11. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim reads "nasal drip control devices" and it is unclear whether applicant is claiming multiple inventions as from the figures and specification it appears applicant is only claiming one invention.

12. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear which device is being referenced.

13. Claim 2 recites the limitation "the nasal drip control device" in line 1. There is insufficient antecedent basis for this limitation in the claim.

14. Claim 2 recites the limitation "the ends" in line 2. There is insufficient antecedent basis for this limitation in the claim.

15. Claim 3 recites the limitation "the nasal devices" in line 1. There is insufficient antecedent basis for this limitation in the claim.

16. Claim 4 rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. This claim is an omnibus type claim. The claim needs to be rewritten as to include the claimed limitations, referring to a figure is improper. It is unclear how the placement device is used and where it is located with reference to the figures as they do not show how it is used and the specification does not explain. Applicant describes two strips separated by a holder and placement device. As the placement device appears to have a nasal device on both ends it is assumed the placement device bridges the column and a nasal device spans the right alar and the left alar, similar to as suggested in figure 1.

17. Claims 4 and 5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There are no standard transition words such as comprising, consisting of which makes it unclear what is actually being claimed.

Additionally claim 4 is rejected as reference to a figure is improper.

18. Claim 5 recites the limitation "the nose" in line 1. There is insufficient antecedent basis for this limitation in the claim.

19. Claim 5 recites the limitation "the nasal pressure points" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

20. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Thorner (USP 6,238,411).

With regards to claim 1, Thorner discloses a nasal device with plastic coated wire (1) (column 7 lines 10-13) and a plastic strip with adhesive (1) (column 4 lines 34-35).

With regards to claim 2, Thorner discloses a device with plastic balls (3) on the end (column 6 lines 54-56 and 63-65).

With regards to claim 3, Thorner discloses an adhesive strip (5) between 3/4-7/8in long (column 10 lines 9-10). Applicant indicates on page 3 of his specification the adhesive strip is about 1/2 inch long.

With regards to claim 4, Thorner discloses a device holder (7) capable of being held in the hand.

With regards to claim 5, Thorner discloses a device that fits over the nose and has curved ends which are capable of fitting on the nasal pressure points. Thorner shows in figure 2 the curved ends (3) and in figure 5 shows the device fitting over the nose, element 5 is over the nose. The pressure points are not defined by applicant, thus examiner assumes the pressure points are indicated in figure 1 of applicant which is the same fit as figure 5 of Thorner.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to AMY SHIPLEY whose telephone number is (571)270-5500. The examiner can normally be reached on M-Th 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Jackson can be reached on (571)272-4697. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.